

ILLINOIS COMMERCE COMMISSION

DRAFT ORDER

I. PROCEDURAL HISTORY

II. MT. CARMEL'S POSITION

Mt. Carmel's Petition for Waiver was verified and the facts set forth therein are taken as true and correct and established for the record. Mt. Carmel is an electric and gas utility in the State of

Illinois and uses its transmission and distribution system to provide electric service to less than 50,000 retail customers within its service territory in the State of Illinois. Mt. Carmel does not own, operate or control any power generation resources as defined in Part 452.

Mt. Carmel has no affiliates and therefore no affiliate of the Company owns, operates or controls any power generation resources. Further, Mt. Carmel established that it provides only mandatory generation services as defined in Section 452.20, and that all power and energy provided to Company's retail customers is purchased through wholesale contracts approved by the Federal Energy Regulatory Commission. Further, none of the power is obtained from any affiliates as there are no affiliated interests of Mt. Carmel.

Mt. Carmel still utilizes and employs a Commission approved fuel adjustment clause in which it recovers the cost of providing mandatory generation services.

Mt. Carmel stated that the cost to comply with Part 452, absent a waiver, would be prohibitive by requiring additional resources to be hired and would drive the costs of operations up, thereby increasing the cost to the customers. Further, such costs would be of no benefit to the customers due to the unique size and structure of Mt. Carmel. Mt. Carmel showed the waiver would not adversely impact the reliability of electric service to its customers and would not cause undue discrimination or impede competition in the State of Illinois or in Company's service area. It was stated that failure to provide the requested relief would in fact cause prejudice to Mt. Carmel and its customers.

III. STAFF'S RESPONSE

Staff stated in its response that under 83 Ill. Adm. Code Section 452.140(b) that in evaluating a Petition, the Commission shall assess the effect of the provisions of Part 452 based on the costs and

reliability of service of the company and the objective of Section 16-119A of the Public Utility Act to prevent undue discrimination and create or promote efficient competition. Staff stated that in its review of the Petition, supported by the verification of the Company's President, Philip Barnhard IV, that Staff found no reason to contest the Petition for Waiver as filed by Mt. Carmel. Staff, in its prayer, supported the request for waiver and requested that the Petition be granted without a hearing.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

1. Mt. Carmel is an Illinois Corporation engaged in the transmission, distribution and sale of electricity to customers at retail in the State, and as such is a public utility within the meaning of the Public Utilities Act;
2. The Commission has jurisdiction over Mt. Carmel and the subject matter herein;
3. The recitals of facts and conclusions reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
4. This matter is not contested by Staff and there are no issues which need to be determined other than approval of the Petition and the relief prayed for therein.

IT IS THEREFORE ORDERED that the Petition of Mt. Carmel Public Utility Co. for Waiver pursuant to 83 Ill. Adm. Code Section 452.140 (Waivers) is approved and the request prayed for therein is approved.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code Section 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this _____ day of _____, 2002.

(SIGNED)

RICHARD L. MATHIAS

CHAIRMAN

(SEAL)